

Mental Health Act, 1964

[Consolidated for convenience only, July 1, 1970.]

Title. 1. This Act may be cited as the *Mental Health Act, 1964*. 1964, c. 29, s. 1.

PART I**INTERPRETATION**

- Interpretation.** 2. In this Act, unless the context otherwise requires,
- “alcohol addict” means a person suffering from a disorder of the mind, evidenced by his so being given over to the use of alcohol that he is unable to control his use thereof and as a result
 - (a) is incapable of managing his affairs; or
 - (b) endangers himself or others;
 - “approved home” means an approved home selected and approved under the regulations made under this Act;
 - “boarding home” means an institution licensed under the *Welfare Institutions Licensing Act*;
 - “Director” means the Director of Mental Health Services appointed under this Act;
 - “father” includes the husband of the mother of a mentally disordered person born in wedlock;
 - “Judge” means a Judge or Local Judge of the Supreme Court of British Columbia;
 - “mentally disordered person” means a mentally retarded or mentally ill person;
 - “mentally ill person” means a person who is suffering from a disorder of the mind
 - (a) that seriously impairs his ability to react appropriately to his environment or to associate with others; and
 - (b) that requires medical treatment or makes care, supervision, and control of the person necessary for his protection or welfare or for the protection of others;
 - “mentally retarded person” means a person
 - (a) in whom there is a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, that is of a nature or degree that requires or is susceptible to medical treatment or other special care or training; and
 - (b) who requires care, supervision, and control for his own protection or welfare or for the protection of others;
 - “Minister” means the Minister of Health Services and Hospital Insurance;
 - “mother” includes the wife of the father of a mentally disordered person born in wedlock;

- “near relative” means a grandfather, grandmother, father, mother, son, daughter, husband, wife, brother, sister, half-brother, or half-sister, and includes the legal guardian of a minor and a committee having custody of the person of a patient under the *Patients’ Estates Act*;
- “nursing home” means an institution licensed under Part II of the *Hospital Act*;
- “observation unit” means a public hospital or any part thereof designated by the Minister as an observation unit;
- “patient” means a person who, under this Act,
- (a) is receiving psychiatric care and treatment; or
- (b) is received, detained, or taken charge of as a mentally disordered person or as an allegedly mentally disordered person;
- “physician” means a duly qualified medical practitioner;
- “private mental hospital” means an establishment licensed under section 6 of this Act;
- “psychiatric unit” means a public hospital or any part thereof designated by the Minister as a psychiatric unit;
- “public hospital” means an institution designated as a hospital under section 2 or 25 of the *Hospital Act*;
- “resident of the Province” means a person who has resided in the Province for a period determined by the Lieutenant-Governor in Council;
- “society” means a society incorporated or registered under the *Societies Act* for the purpose of establishing or operating facilities or services designed for the mental welfare of residents of the Province;
- “Superintendent” means a person who is appointed in charge of a Provincial mental health facility and includes a person authorized by that person to exercise the power or duty of the Superintendent conferred or imposed by the provision being interpreted. 1964, c. 29, s. 2; 1968, c. 27, s. 2; 1969, c. 17, s. 1.

PART II

ADMINISTRATION

Division (1).—Facilities and Services

Establishment
of facilities
and services.

3. The Lieutenant-Governor in Council may establish and maintain facilities and services for the examination, diagnosis, and treatment of mentally disordered persons and the rehabilitation of patients, and for that purpose may, by order, authorize the Minister, for and on behalf of Her Majesty the Queen in right of the Province, to purchase, receive by way of grant or gift, or otherwise acquire, manage, occupy, and operate real and personal property. 1964, c. 29, s. 3.

Designation of Provincial mental health facilities and observation units.

4. (1) Every public mental hospital, mental health centre, clinic of psychological medicine, school for mental defectives, and child guidance clinic established under a Statute of the Province and in existence as such at the time of the coming into force of this Act is a Provincial mental health facility.

(2) The Lieutenant-Governor in Council may designate any building or premises as a Provincial mental health facility.

(3) The Minister may designate any public hospital or any part of a public hospital as an observation unit.

(4) The Minister may designate any Provincial mental health facility or any part thereof as a school for mentally retarded persons.

(5) The Minister may designate any public hospital or any part thereof, not being a Provincial mental health facility, as a psychiatric unit. 1964, c. 29, s. 4; 1968, c. 27, s. 3.

Transfer of facilities.

5. The Lieutenant-Governor in Council may, by order, transfer a Provincial mental health facility or service or a part thereof to a society, and shall, in the order, designate

(a) the terms and conditions of the transfer of the real and personal property that constitutes the Provincial mental health facility or service or part thereof;

(b) the number of persons who are to be appointed to the board of management of that society by the Lieutenant-Governor in Council;

(c) the requirements of inspection by the Director or his representative;

and he shall, in the order, give any necessary direction with respect to the transfer of officers and employees who are civil servants under the *Civil Service Act* from the Provincial mental health facility to a society; but he may direct that, notwithstanding the transfer, the officers and employees shall continue in the civil service of the Province. 1964, c. 29, s. 5; 1969, c. 17, s. 2.

Licensing of private premises.

6. (1) The Lieutenant-Governor in Council may license, for the care and treatment of mentally disordered persons, any premises as a private mental hospital where he is satisfied that

(a) the structure of the hospital and the accommodation and furnishings afforded therein are adequate in all respects for the housing, care, and treatment of patients; and

(b) the hospital staff is qualified in number and training to care for and administer treatment to patients with any type or degree of mental disorder,

and may make regulations regarding these requirements as well as any others that may be deemed necessary or advisable.

(2) One or more Inspectors for private mental hospitals licensed under subsection (1) may be appointed in accordance with the *Civil Service Act*.

(3) Every Inspector appointed under this section shall at all reasonable times have access to every part of every private mental hospital for the purposes of inspection, and during his inspection all records, documents, books of account, medical appliances, and stores, including drugs, shall be made available to him, and he shall be given access to any patient or member of the staff.

(4) No person shall receive into or cause or permit to remain in a private house for gain or payment any mentally disordered person unless

- (a) the house is licensed under subsection (1); or
- (b) the house is a boarding home; or
- (c) the house is a nursing home that is licensed under the *Hospital Act* to provide lodging, care, and treatment to mentally disordered persons; or
- (d) the person is placed there with the approval and under the supervision of the Superintendent of a Provincial mental health facility.

(5) Every person who contravenes subsection (4) commits an offence. 1964, c. 29, s. 6.

Persons entitled to service.

7. Subject to sections 15 and 21, every resident of the Province is entitled to receive any service and to the accommodation in the facilities provided under this Act in accordance with the provisions of this Act and the regulations made hereunder. 1964, c. 29, s. 7.

Division (2).—Minister and Staff

Responsibility of Minister.

8. The Minister is responsible for the administration of this Act, and shall present the annual report of the Mental Health Branch of the Department of Health Services and Hospital Insurance to the Legislature at the sitting next following receipt of the report from the Deputy Minister of Mental Health. 1964, c. 29, s. 8; 1968, c. 27, s. 4.

Director of Mental Health Services.

9. (1) One or more Directors of Mental Health Services may be appointed, in accordance with the *Civil Service Act*, and a person so appointed shall be a physician recognized by the College of Physicians and Surgeons of British Columbia as a specialist in psychiatry.

(2) The Director of Mental Health Services is responsible to the Deputy Minister of Mental Health for the standards of care and treatment within the Provincial mental health facilities of the Province. 1964, c. 29, s. 9; 1968, c. 27, s. 5; 1969, c. 17, s. 3.

Staff.

10. For each Provincial mental health facility, a Superintendent and such medical officers and other staff as are required may be appointed pursuant to the *Civil Service Act*. 1964, c. 29, s. 10.

Duties of Superintendent.

11. The Superintendent of a Provincial mental health facility, subject to the supervision of the Director, shall

- (a) ensure that each patient in the facility receives professional medical care and treatment appropriate to his condition;
- (b) direct and control the medical treatment of all patients within the Provincial mental health facility;

- (c) supervise the internal management of the Provincial mental health facility and maintain discipline and the observance of the rules and regulations;
- (d) carry out, or cause to be carried out, all orders and directions of the Director; and
- (e) report monthly and annually to the Director on the affairs and condition of the Provincial mental health facility. 1964, c. 29, s. 11.

Division (3).—Charges

Charges.

12. The Lieutenant-Governor in Council may fix per diem charges for care, treatment, and maintenance provided in a Provincial mental health facility. 1964, c. 29, s. 12.

Assessment Committee.

13. (1) The Lieutenant-Governor in Council may appoint an Assessment Committee, consisting of three members, who shall hold office during pleasure and without remuneration.

(2) Upon the recommendation of the Assessment Committee, the charges levied for the care, treatment, and maintenance of a patient may be modified or fully remitted for whatever period of time is designated in the recommendation. 1964, c. 29, s. 13.

Guardians, committees, etc.

14. (1) A guardian, committee, or other person liable for payment for a patient's care, treatment, or maintenance shall, on demand from the Superintendent of a Provincial mental health facility in which the patient is or has been receiving care, treatment, or maintenance, make payments to the Superintendent in accordance with the rates fixed under this Act.

(2) The Superintendent may demand from a guardian, committee, or other person liable to pay for a patient's care, treatment, or maintenance any sum due at any time, and may in default of payment sue on behalf of Her Majesty the Queen in right of the Province for the recovery of the sum in any Court of competent jurisdiction.

(3) An action under this section shall be taken in the name of the Superintendent. 1964, c. 29, s. 14.

Admissions from penitentiaries.

15. The Superintendent of every Provincial mental health facility shall ensure that no mentally disordered person is admitted into any Provincial mental health facility from a penitentiary, prison, gaol, reformatory, or institution under the jurisdiction and administration of Canada unless Her Majesty the Queen in right of Canada, by or through an officer having authority to act on her behalf, undertakes to pay all charges for care, treatment, and maintenance of that person. 1964, c. 29, s. 15.

Expenses of conveyance.

16. (1) When a patient is unable to meet the expenses of his examination, the procedures for his admission to a Provincial mental health facility, or his conveyance to a Provincial mental health facility, the expenses are a charge on the local area in which he has residence.

(2) When a local authority for a local area in which a patient does not reside has advanced moneys to meet the expenses of the examination, the

procedures for his admission to a Provincial mental health facility, or the conveyance of the patient to a Provincial mental health facility, the local authority may recover the moneys as a debt from the local area in which the patient resided immediately before his admission.

(3) When any dispute arises as to the liability of a local area under this section, the Board of Arbitration appointed under the *Residence and Responsibility Act* shall hear the dispute and make a final decision thereon.

(4) When a municipality incurs expenses for the examination, procedures for admission, or conveyance of a patient to a Provincial mental health facility, the municipality may recover its expenses as a debt due from the patient.

(5) When a Superintendent incurs expenses for the examination, procedures for admission, or conveyance of a patient to a Provincial mental health facility, the amount thereof shall be converted to and may be recovered as a charge in an equal amount for care and treatment in the Provincial mental health facility.

(6) Section 2 of the *Residence and Responsibility Act* applies for the purpose of interpretation of this section. 1964, c. 29, s. 16.

Reciprocal
arrangements.

17. (1) The Lieutenant-Governor in Council may, on behalf of Her Majesty the Queen in right of the Province, enter into or cancel a reciprocal arrangement with the Government of any other Province of Canada for the assumption of all or part of the charges incurred by a resident of one Province hospitalized in a public mental hospital or Provincial mental health facility in another.

(2) The Lieutenant-Governor in Council may, on behalf of Her Majesty the Queen in right of the Province, enter into or cancel an agreement with the Government of Canada for the sharing of costs of care and treatment of mentally disordered persons. 1964, c. 29, s. 17.

Division (4).—General

Conveyance of
patients.

18. (1) The person who applies for the admission of a female person to a Provincial mental health facility shall arrange for a near relative or a female person to accompany the patient between the time of the application and her admission to a Provincial mental health facility.

(2) A person who is being conveyed to a Provincial mental health facility for admission thereto and who is not detained or being conveyed under the Criminal Code of Canada or under section 28 shall be kept separate from any person who is detained or being conveyed under the Criminal Code of Canada or under section 28. 1964, c. 29, s. 18.

Saving.

19. (1) No person is liable in damages as the result of

- (a) signing an application or laying an information;
- (b) signing a medical certificate or making a report if he is a physician;
- (c) signing an order if he is a Judge;

- (d) issuing a warrant if he is a Magistrate or a Justice; or
- (e) transporting or taking charge of a person on the authority of applications and medical certificates which on their face are lawfully completed

in good faith and with reasonable care.

(2) No person shall take civil proceedings in respect of any of the acts enumerated in subsection (1)

- (a) after twelve months have elapsed from the date of the discharge of the person with respect to whom the act was performed from the Provincial mental health facility; or
- (b) elsewhere than in the county where the act was performed. 1964, c. 29, s. 19; 1968, c. 27, s. 6.

Offence.

20. (1) A person who

- (a) assists a patient to leave or to attempt to leave a Provincial mental health facility without proper authority;
- (b) does or omits to do any act for the purpose of assisting a patient in leaving or attempting to leave a Provincial mental health facility without proper authority; or
- (c) incites or counsels a patient to leave a Provincial mental health facility without proper authority

commits an offence punishable under the *Summary Convictions Act*.

(2) A person employed in a Provincial mental health facility or a private mental hospital or any other person having charge of a patient who ill-treats or wilfully neglects a patient commits an offence punishable under the *Summary Convictions Act*. 1964, c. 29, s. 20.

PART III

ADMISSION AND DETENTION OF PATIENTS

Division (1).—Admission Procedures

Accommodation.

21. Notwithstanding anything contained in this Act, a Superintendent or person having authority to admit persons to a Provincial mental health facility shall not admit a person to a Provincial mental health facility if

- (a) suitable accommodation is not available within the Provincial mental health facility for the care, treatment, and maintenance of the patient; or,
- (b) in his opinion, the person is not a mentally disordered person or is a person who, because of the nature of his mental disorder, could not be cared for or treated appropriately in the facility. 1964, c. 29, s. 21.

Informal admissions.

22. (1) The Superintendent of a Provincial mental health facility may admit any person to and detain him in the Provincial mental health facility where

- (a) the person requests admission, if he has attained the age of eighteen years; or

- (b) the person and a near relative of the person request admission, if the person has attained the age of sixteen years but has not attained the age of eighteen years; or
- (c) on the request of a parent or guardian or, if a parent or appointed guardian is not available, of his nearest relative, if he is under the age of sixteen years,

and the Superintendent is satisfied that the person has been examined by a physician who is of the opinion that the person is a mentally disordered person.

(2) A nurse in charge of a ward in a Provincial mental health facility shall

- (a) ensure that each patient in the ward who was admitted under this section is enabled to communicate without delay to the Superintendent of the facility any desire that he may form to leave the facility; and,
- (b) upon learning that a patient in the ward who was admitted under this section desires to leave the facility, promptly notify the Superintendent of the facility of that desire.

(3) Within seventy-two hours of the receipt of notification, in any way,

- (a) of the desire to leave the facility of a patient over the age of sixteen years who was admitted under subsection (1); or
- (b) of a request for the discharge from the facility of a patient under the age of sixteen years who was admitted under subsection (1), made by any person entitled to apply for the patient's admission,

the Superintendent shall discharge the patient from the facility.

(4) Subsections (2) and (3) do not apply if the requirements for detention of the patient under section 23 have been fulfilled.

(5) A person who has attained the age of eighteen years and who has been admitted to a Provincial mental health facility on his own application under clause (a) of subsection (1) is, notwithstanding any rule of law relating to minors, deemed to have the capacity to make the application and any agreement for payment for maintenance and treatment in the facility, and to authorize his treatment in the facility. 1964, c. 29, s. 22; 1968, c. 27, s. 7.

Involuntary admissions.

23. (1) The Superintendent of a Provincial mental health facility may admit a person to and detain him in the Provincial mental health facility where he receives a written application that is accompanied by two medical certificates completed by two physicians in accordance with subsection (3) and is made

- (a) by a near relative of the person; or,
- (b) if there is no near relative of the person capable of acting and willing to act, anyone who has knowledge of the circumstances and the antecedents of the person or who has charge of the person at the time; or

- (c) any peace officer; or
- (d) anyone who has reason to believe that the person is mentally disordered,

and signed not more than fourteen days prior to the date of admission.

(2) An application under subsection (1) is not valid unless there is set forth therein

- (a) the full name, age, and address of the applicant;
- (b) the relationship of the applicant (if any) to the person whose admission is applied for;
- (c) the full name, age, and address of the person whose admission is applied for; and
- (d) the signature of the applicant and the date of the signature, together with whatever other information may be required by the text of the form of application, which shall be prescribed and may be altered from time to time by the Lieutenant-Governor in Council.

(3) Each medical certificate shall be completed and signed by a physician who is not disqualified under subsection (4), and who has examined the person whose admission is applied for not more than fourteen days prior to the date of admission, and shall set forth

- (a) a statement by the physician that he has examined the person whose admission is applied for on the date or dates set forth and is of the opinion that the person is a mentally disordered person;
- (b) in summary form the reasons upon which his opinion is founded; and,
- (c) in addition to the statement required under clause (a), a separate statement by the physician that he is of the opinion that the person whose admission is applied for
 - (i) requires medical treatment in a Provincial mental health facility; or
 - (ii) requires care, supervision, and control in a Provincial mental health facility for his own protection or welfare or for the protection of others.

(4) A physician is disqualified from giving a valid medical certificate under this section if he is

- (a) the person whose admission is applied for;
- (b) the applicant;
- (c) a partner of the applicant;
- (d) engaged in the practice of medicine in partnership or associated with the physician who completes the other certificate;
- (e) a person employed as an assistant by the applicant or the physician who completes the other certificate;
- (f) except as provided in subsection (4a), a person who receives or who has an interest in the receipt of any payments made on account of the maintenance of the person whose admission is applied for.

(4a) A physician on the staff of the Provincial mental health facility to which a person is to be admitted, or a consultant or other physician employed thereat, is not disqualified from giving a valid medical certificate by reason only of clause (f) of subsection (4) unless the other certificate is given by such a physician or consultant.

(5) A medical certificate given under this section becomes invalid on the fifteenth clear day after the date upon which the physician examined the person who is the subject of the certificate.

(6) The two certificates completed as required under this section are sufficient authority for any person to apprehend and convey the person named in the statement made under clause (a) of subsection (3) to a Provincial mental health facility. 1964, c. 29, s. 23; 1968, c. 27, s. 8.

Duration of
detention.

24. (1) A patient admitted under section 23 may be detained in a Provincial mental health facility until the anniversary of the date of his admission, and he shall be discharged on that day unless the authority for his detention is renewed in accordance with this section.

(2) Authority for the detention of a patient may, unless the patient has previously been discharged, be renewed under this section

(a) from the expiration of the period referred to in subsection (1) of this section for a further period of one year; and

(b) from the expiration of any period of renewal under clause (a) of this subsection for a further period of two years;

and so on for periods of two years at a time.

(3) Within a period of two months ending on the day on which a patient who has been detained in a Provincial mental health facility would cease under this section to be liable to detention in default of renewal under subsection (2), the Superintendent of the Provincial mental health facility, or a physician authorized by him to do so, shall examine the patient and either discharge the patient or record a written report of the examination and include therein his reasons for concluding that the detention of the patient should be renewed, and the report is a renewal of the authority for the detention of the patient. 1964, c. 29, s. 24.

Temporary
admissions to
psychiatric
unit.

24A. (1) Where the requirements for the admission and detention of a person under section 23 have been fulfilled, the officer in charge of a psychiatric unit may admit that person to the psychiatric unit and detain him there for a period not exceeding thirty days, within which he may be transferred to a Provincial mental health facility; provided that if a person detained in a psychiatric unit under this section is not so transferred within a period of thirty days after his admission, he shall be discharged therefrom not later than twelve hours after the expiry of that period.

(2) Where a person detained in a psychiatric unit under this section is transferred to a Provincial mental health facility with the approval of the Superintendent thereof, he may be admitted and detained therein as if he had been transferred thereto from some other Provincial mental health facility, but, notwithstanding subsection (3) of section 33, nothing in this

section shall be construed as abridging any period of time prescribed by this Act in relation to a patient's admission to a facility.

(3) Subsection (6) of section 23 applies, with the necessary variations, to the apprehension and conveyance of a person to a psychiatric unit.

(4) Sections 29 and 34 and, so long as he may be detained therein, section 38 apply, with the necessary variations, to a patient in a psychiatric unit. 1968, c. 27, s. 9.

Emergency admissions where only one medical certificate available.

24B. Where

- (a) the form of application referred to in section 23 has been completed in accordance with that section in respect of any person; and
- (b) a medical certificate has been completed by a physician; but
- (c) there is no other physician, who is qualified to give a second medical certificate, by whom such person can be examined, practising in the vicinity or within a reasonable distance of the place where such person resides,

the completed certificate, endorsed by the physician who gave it with a statement in the terms of clause (c), is sufficient authority for any person to apprehend and convey such person to a Provincial mental health facility or a psychiatric unit, for the admittance of such person in the facility or unit, and for his detention there for the purposes of examination for a period which shall not, unless the detention becomes otherwise authorized, exceed seventy-two hours. 1968, c. 27, s. 9.

Thirty-day admissions.

25. (1) The Superintendent of a school for mentally retarded persons may admit a person to and detain him in the school for a period not longer than thirty days where he receives

- (a) a written application for the admission of the person for a thirty-day period made in accordance with subsection (2) of section 23 by
 - (i) a near relative of the person; or,
 - (ii) if there is no near relative of the person capable of acting and willing to act, anyone who has knowledge of the circumstances and the antecedents of the person or who has charge of the person at the time,

together with

- (b) one medical certificate completed by one physician in accordance with subsection (3) of section 23.

Day-school classes.

(2) The Superintendent of a school for mentally retarded persons may admit a person whom he is satisfied is a mentally retarded person as a non-resident pupil in day-school classes held in the school where he receives a written application for the admission of the person to day-school classes made in accordance with subsection (2) of section 23 by

- (a) a near relative of the person; or,
- (b) if there is no near relative of the person capable of acting and willing to act, anyone who has knowledge of the circumstances

and the antecedents of the person or who has charge of the person at the time. 1964, c. 29, s. 25.

Alcohol
addicts.

26. (1) The Superintendent of a Provincial mental health facility may admit to and detain in the Provincial mental health facility for a period of not less than thirty days and not more than one year an alcohol addict where

- (a) the Superintendent is satisfied that the person is an alcohol addict and is suitable for care and treatment as an alcohol addict;
- (b) the Superintendent receives from the person a written application voluntarily made by him in the form prescribed by the Lieutenant-Governor in Council; and
- (c) the Superintendent is satisfied that the person is mentally competent to make application.

(2) After thirty days after the admission of a person under subsection (1), subsections (2), (3), and (4) of section 22 apply as if he had been admitted under section 22. 1964, c. 29, s. 26.

Emergency
procedures.

27. (1) Where a police officer or constable is satisfied from his own observations that a person

- (a) is acting in a manner likely to endanger his own safety or that of others; and
- (b) is apparently suffering from mental disorder,

he may take such person into custody and take him forthwith to a physician; and if the physician is satisfied that that person is a mentally disordered person and in need of care, supervision, or control for his own protection or welfare, or for the protection of others, he may be taken, on the certificate of the physician, to a Provincial mental health facility, a psychiatric unit, or an observation unit; otherwise he shall be released.

(2) Where an application is made to him by anyone who appears to have good reason to believe that a person is a mentally disordered person and dangerous to be at large, a Magistrate or, if there is no Magistrate then available, a Justice may, if he is satisfied that the procedures for the admission of the person to a Provincial mental health facility or psychiatric unit, or for conveying him thither for examination, cannot be utilized without dangerous delay, issue a warrant in the Form A in the Schedule, and such warrant shall be authority for the apprehension of the person concerned, and for his conveyance and admission to a Provincial mental health facility, a psychiatric unit, or an observation unit.

(3) The Superintendent of a Provincial mental health facility, or the officer in charge of a psychiatric unit or an observation unit, may admit a person in respect of whom he is satisfied a certificate has been issued under subsection (1) or a warrant has been issued under subsection (2), and may detain him in the facility or unit for a period which shall not, unless the detention becomes otherwise authorized, exceed seventy-two hours. 1964, c. 29, s. 27; 1968, c. 27, s. 10; 1970, c. 24, s. 1 (eff. July 4, 1972).

Prisoners and
training-school
inmates.

28. The Lieutenant-Governor in Council, upon receiving two medical certificates completed in accordance with section 23 in respect of the mental condition of any person imprisoned or detained in any gaol or lock-up in the Province or in any training-school established under any Act of the Legislature, may order the removal of the person to a Provincial mental health facility, whereupon

- (a) the Warden or other person in charge of the gaol, lock-up, or training-school shall, in accordance with the order, cause the person to be conveyed to the Provincial mental health facility named in the order and send to the Superintendent of the Provincial mental health facility an application for admission in the form prescribed by the Lieutenant-Governor in Council by regulation, together with copies of the medical certificates; and
- (b) the person shall be detained in that Provincial mental health facility or in such other Provincial mental health facility as the Lieutenant-Governor in Council may from time to time order until his complete or partial recovery or until other circumstances justifying his discharge from the Provincial mental health facility are certified to the satisfaction of the Lieutenant-Governor in Council, who may then order him back to imprisonment or detention if then liable thereto or otherwise to be discharged. 1964, c. 29, s. 28.

Direction and
discipline of
patients.

29. Every patient detained in the Provincial mental health facility is, during his detention, subject to the direction and discipline of the Superintendent and of the members of the staff of the Provincial mental health facility authorized in that behalf by the Superintendent. 1964, c. 29, s. 29.

Division (2).—Review Procedures

Application to
Judge for dis-
charge.

30. (1) A person for whose admission to a Provincial mental health facility an application is made under section 23 or a patient, or a near relative of the person or patient, or anyone who believes that there is not sufficient reason for the admission or detention of the person or patient under this Act, may apply before admission of the person or within three months after the date of admission of the patient to a Provincial mental health facility to a Judge in Chambers for

- (a) an order prohibiting the admission of the person to a Provincial mental health facility pursuant to that application;
- (b) an order prohibiting the admission of the person to a Provincial mental health facility pursuant to that application or any other application for admission of the person to a Provincial mental health facility made prior to the date of the order; or
- (c) an order that the patient be discharged from the Provincial mental health facility.

(2) Nothing in this section in any way affects the right of a person to apply for a writ of habeas corpus or other prerogative writ.

(3) Upon hearing an application under subsection (1), the Judge may review the evidence, including all papers relating to the admission applied for or the admission and detention of the patient, and may hear such further evidence as he deems relevant.

(4) Where the Judge is satisfied that there is or was sufficient reason and authority for the admission of a person or patient to a Provincial mental health facility and for his detention therein, he shall order that the person or patient be detained in a Provincial mental health facility for care and treatment.

(5) Where the Judge is not satisfied that there is or was sufficient reason or authority for the admission of the person to a Provincial mental health facility or for the detention of the patient therein, he may make an order

- (a) prohibiting anyone from admitting the person to a Provincial mental health facility pursuant to the application for admission that gave rise to the application under this section; or
- (b) prohibiting anyone from admitting the person to a Provincial mental health facility pursuant to any application for admission made prior to the date of the order; or
- (c) that the patient be discharged from the Provincial mental health facility; or
- (d) that the Superintendent of a designated Provincial mental health facility obtain within ten days a report from a physician who is recognized by the College of Physicians and Surgeons of British Columbia as being a specialist in psychiatry, and who would not be disqualified from giving a valid medical certificate under section 23, stating whether or not in his opinion the person or patient is in fact mentally disordered and therefore requiring care and treatment in a Provincial mental health facility, and that the person, if he is not detained at the time of the making of the order in a Provincial mental health facility, attend before the physician for examination at a time and place appointed by the Superintendent.

(6) Upon receipt of the report made pursuant to an order under subsection (5), a Judge shall,

- (a) if he is satisfied that the person or patient is mentally disordered and requiring care and treatment in a Provincial mental health facility, order that the person or patient be admitted to and detained in or detained in the Provincial mental health facility; or,
- (b) if he is not satisfied that the person or patient is mentally disordered and requiring care and treatment in a Provincial mental health facility, make an order under clause (a), (b), or (c) of subsection (5).

(7) Where an order is made under this section for the discharge of a person or patient from a Provincial mental health facility, the Superintendent of the Provincial mental health facility shall forthwith discharge the person or patient therefrom.

(8) In this section, "Provincial mental health facility" includes a psychiatric unit, and a Superintendent of a Provincial mental health facility includes the officer in charge of a psychiatric unit; and where a person has, pursuant to section 24A, been admitted to a psychiatric unit and removed thence to a Provincial mental health facility, any application made under this section prior to his removal shall be continued with the substitution of the appropriate parties and shall be deemed to include an application in relation to admission and detention in the Provincial mental health facility. 1964, c. 29, s. 30; 1968, c. 27, s. 11.

Review Panel. **31.** (1) At any time after thirty days have elapsed since the admission of a patient to a Provincial mental health facility, any person, including the patient, may apply to have the patient's case reviewed by two members of the Review Panel.

(2) An application under this section shall be made in the form prescribed by the Lieutenant-Governor in Council, and shall be delivered to the Superintendent of the Provincial mental health facility in which the patient is detained.

(3) Upon the recommendation of the Director, the Minister shall, in January of each year, establish a Review Panel composed of physicians who are recognized by the College of Physicians and Surgeons of British Columbia as being specialists in psychiatry.

(4) At the beginning of each month the Superintendent of each Provincial mental health facility shall select from the Review Panel two members thereof who are not members of the staff of the Provincial mental health facility under the supervision of the Superintendent, and those members shall review the case of each patient in respect of whom the Superintendent receives an application under subsection (1) during that month.

(5) Where the case of a patient with respect to whom a physician has given any certificate comes before the physician for review as a member of the Review Panel, the physician shall notify the Superintendent that he has given a certificate with regard to the patient, and the Superintendent shall thereupon select another member of the Panel to review the case of the patient.

(6) A review applied for under this section shall be undertaken without delay, and a recommendation shall, so far as is feasible, be made before the end of the next calendar month following the month in which the review was applied for.

(7) A member of the Review Panel charged with reviewing any case shall be given access to all sources of information that he may request in connection with the patient, including access to the patient himself, to

any member of the staff of any Provincial mental health facility acquainted with the patient's case, and to all the records of any Provincial mental health facility, for the purpose of acquiring information with regard to the patient.

(8) After a review of the information requested, each member of the Review Panel charged with reviewing a case shall issue a recommendation to the Superintendent concluding that the patient continues to require care and treatment or that the patient no longer requires care and treatment.

(9) Subject to section 24, if the members of the Review Panel charged with reviewing a case recommend that the patient continues to require care and treatment, the Superintendent shall, subject to Division (3), detain the patient in the Provincial mental health facility until the Superintendent concludes that the patient no longer requires the care and treatment.

(10) If the members of the Review Panel charged with reviewing a case recommend that the patient no longer requires care and treatment, the Superintendent shall discharge the patient forthwith.

(11) In the event that the recommendations of the members of the Review Panel charged with reviewing the case are not in agreement as to whether or not the patient continues to require care and treatment, the Superintendent shall arrange to have the case reviewed by another member of the Review Panel, who shall determine which recommendation is to be accepted and acted upon, and his determination is final.

(12) Upon the expiry of six months after the member of the Review Panel charged with reviewing a case has made a recommendation under this section, and if in the meantime the patient has not been discharged, another application may be made under this section.

(13) Notwithstanding any of the provisions of this section, no patient

(a) who was admitted to a Provincial mental health facility under section 28 or under the Criminal Code of Canada and remains liable to imprisonment or detention in a gaol, prison, or training-school; or

(b) who is detained in a Provincial mental health facility by reason of any provision of the Criminal Code of Canada

may make application for a review under this section. 1964, c. 29, s. 31; 1968, c. 27, s. 12.

Advice regarding reviews.

32. (1) Forthwith after the admission of a patient to a Provincial mental health facility under section 23, the Superintendent of the facility shall send in writing to the next of kin of the patient a notice setting forth the rights of the patient under sections 30 and 31.

(2) If the Superintendent has no information with regard to the identity of the next of kin of the patient, subsection (1) is sufficiently complied with if the notice is sent to the Public Trustee. 1964, c. 29, s. 32.

Division (3).—Transfer, Discharge, and Leave

Transfers.

33. (1) When a transfer to another Provincial mental health facility is considered to be beneficial to the welfare of a patient, the Superintendent of the facility may apply to the Director, and the Director may authorize the transfer and cause the patient to be transferred in accordance with his direction.

(2) Notwithstanding subsection (1), a patient detained in a Provincial mental health facility pursuant to section 28 may be transferred to another Provincial mental health facility only in accordance with an Order of the Lieutenant-Governor in Council made under section 28.

(3) A Superintendent of a Provincial mental health facility to whose facility a patient has been transferred in pursuance of this section has authority to detain the patient, and the time limited by this Act for the doing of any thing shall run as if the patient's detention were continuous in one facility. 1964, c. 29, s. 33; 1968, c. 27, s. 13.

Discharge.

34. (1) The Superintendent of a Provincial mental health facility or the officer in charge of an observation unit may discharge a person from the facility or unit.

(2) An application or medical certificate made under this Act is not effective for use for any of the purposes of this Act after the discharge of the person with respect to whom the application or certificate is made.

(3) When a person is discharged from a Provincial mental health facility or observation unit other than by the operation of subsection (3) of section 38, the Superintendent of the facility or officer in charge of the observation unit shall, upon receiving an application by or on behalf of the person, furnish the person with a certificate of discharge, signed by the Superintendent, in the form prescribed by the Lieutenant-Governor in Council by regulation. 1964, c. 29, s. 34.

Leave.

35. (1) Subject to section 37, the Superintendent of a Provincial mental health facility may release a patient detained in the Provincial mental health facility on leave for designated purposes for stipulated periods of time upon such conditions as the Superintendent may prescribe to the care of relatives of the patient or others capable of assuming responsibility for his care.

(2) [*Repealed.* 1968, c. 27, s. 14.] 1964, c. 29, s. 35.

Approved homes.

36. Subject to section 37, where the Superintendent of a Provincial mental health facility considers it beneficial to a patient detained therein, he may cause the patient to be transferred from the Provincial mental health facility to an approved home upon such conditions as the Superintendent may prescribe. The Lieutenant-Governor in Council may make regulations for the selection and approval of approved homes and for the payment of the cost of the maintenance of the patients therein. 1964, c. 29, s. 36.

Continuance
of detaining
authority of
patients on
leave, etc.,
and recall.

36A. (1) For the avoidance of doubt, it is hereby declared that the release of a patient on leave or his transfer to an approved home pursuant to section 35 or 36 does not, of itself, impair the authority for his detention, and that authority may be continued, according to the same procedures and to the same extent, as if the patient were detained in a Provincial mental health facility.

(2) A patient who is on leave or has been transferred to an approved home shall, until discharged, be liable to recall either to the facility from which he was released or transferred or, if the transfer is authorized by the Director pursuant to section 33, to some other facility; and the Superintendent of either such facility may issue a warrant in the Form B in the Schedule for the apprehension of the patient and his conveyance to the facility to which he is recalled; provided that where a patient escapes from the custody of any person to whose care he has been released on leave or from an approved home, the provisions of subsection (3) of section 38 shall apply. 1968, c. 27, s. 15.

Exception.

37. Except as provided by Order of the Lieutenant-Governor in Council, sections 35 and 36 do not apply to a patient

- (a) who was admitted to a Provincial mental health facility under section 28 or under the Criminal Code of Canada and remains liable to imprisonment or detention in a gaol, prison, or training-school; or
- (b) who is detained in a Provincial mental health facility by reason of any provision of the Criminal Code of Canada. 1964, c. 29, s. 37.

Escapees.

38. (1) Where a patient detained in a Provincial mental health facility leaves the facility without having been discharged under any other section of this Act, the Superintendent may, within sixty days after the date upon which the patient leaves the facility, issue a warrant in Form B in the Schedule for the apprehension of the patient and his conveyance to the Provincial mental health facility, and the warrant is authority for the apprehension of the patient and his conveyance to the facility.

(2) Where a warrant is issued under subsection (1), all peace officers and other persons designated by the Superintendent shall render any assistance required in the apprehension of the patient or the conveyance of the patient to the Provincial mental health facility.

(3) Except as provided in subsection (4), after the expiration of sixty days from the date upon which the patient leaves the Provincial mental health facility under the circumstances set forth in subsection (1), he shall be deemed to have been discharged from the Provincial mental health facility.

(4) Where a patient detained in a Provincial mental health facility escapes from the facility under the circumstances set forth in subsection (1) while charged with an offence or liable to imprisonment or considered

by the Superintendent to be dangerous to himself or others, notwithstanding that the period of sixty days has elapsed since the date upon which he left the Provincial mental health facility, the Superintendent may issue a warrant in Form B in the Schedule for the apprehension of the patient and his conveyance to a Provincial mental health facility, and the warrant is authority for the apprehension of the patient and for his conveyance to the Provincial mental health facility.

(5) Where a person escapes during the course of his removal or transfer to a Provincial mental health facility, both the Superintendent of the facility to which he is being removed or transferred and the Superintendent or officer in charge of the facility or unit from which he is removed or transferred shall have power to issue a warrant under this section.

(6) A patient detained in a Provincial mental health facility who leaves the facility, otherwise than on release on leave or transfer, without being discharged may be apprehended for the purpose of returning him to the facility, within forty-eight hours of his escape, notwithstanding that no warrant has been issued under this section, and a person so apprehended shall be conveyed in custody to the facility from which he escaped or to some other facility to which the Director has authorized his transfer. 1964, c. 29, s. 38; 1968, c. 27, s. 16.

Transfers
from other
jurisdictions.

38A. Where the Lieutenant-Governor is satisfied that reciprocal provisions are, or will be made, in some other jurisdiction, whether within or outside Canada, he may, by order, declare that jurisdiction to be a reciprocating jurisdiction, and, so long as such order is in force, it shall be lawful, subject to any regulations in that behalf, to transfer a person detained, pursuant to any measure in that jurisdiction corresponding to this Act, to a Provincial mental health facility, and a certificate issued in accordance with such regulations shall be sufficient authority to convey such person to a Provincial mental health facility as if he had been transferred from another facility under this Act, and to detain him therein under this Act. 1968, c. 27, s. 17.

PART IV

REGULATIONS

Regulations.

39. In addition to the powers of the Lieutenant-Governor in Council elsewhere in this Act set forth, the Lieutenant-Governor in Council may make regulations for the purposes of carrying into effect the intention of the provisions of this Act, and, without restricting the generality of that power, may make regulations

- (a) prescribing forms for the purposes of this Act;
- (b) for the selection, approval, and operation of approved homes;
- (c) governing the establishment, development, maintenance, and management of Provincial mental health facilities for the

- examination, diagnosis, and treatment of mentally disordered persons and the rehabilitation of patients;
- (c1) governing the reports to be made in respect of, and the protection and custody of, patients detained involuntarily in psychiatric units and observation units;
 - (c2) governing the transfer of patients to and from reciprocating jurisdictions;
 - (d) with respect to the purchase, receipt, or other acquisition of property under this Act and the management thereof;
 - (e) respecting standards for buildings designated as Provincial mental health facilities and for the furnishings and equipment therein;
 - (f) respecting the establishment and operation of any mental health clinic or service by a society, the standards of care to be observed in any such clinic or in the provision of the service, the requirements of inspection thereof, and the rates or fees charged by the society;
 - (g) respecting the licensing of premises as private mental hospitals, the conditions of any such licence, and the designation of the provisions of this Act that are applicable to private mental hospitals;
 - (h) respecting follow-up and after-care services and rehabilitation programmes for patients;
 - (i) governing boarding-home care services;
 - (j) respecting the admission of patients to Provincial mental health facilities or any particular Provincial mental health facility, the care, treatment, and maintenance of patients, and the discharge of patients. 1964, c. 29, s. 39; 1968, c. 27, s. 18; 1969, c. 17, s. 4.

PART V

TRANSITIONAL AND COMMENCEMENT

Voluntary patients.

40. (1) Every person lawfully admitted to a public mental hospital or a clinic of psychological medicine under the provisions for voluntary admission contained in any Act repealed by this Act, and who is resident therein on the date of coming into force of this Act, shall be deemed to have been admitted to the Provincial mental health facility in which he is resident under section 22.

Offenders.

(2) Every person lawfully detained in a public mental hospital or school for mental defectives under section 21 of the *Mental Hospitals Act* or section 12 of the *Schools for Mental Defectives Act* shall be deemed to have been admitted to the Provincial mental health facility in which he is detained under section 28 of this Act.

Others.

(3) Every person lawfully admitted to a public mental hospital or a clinic of psychological medicine or a school for mental defectives under any provision of any Act repealed by this Act, and who is resident therein on the date of coming into force of this Act, and who is not a person coming within subsection (1), shall be deemed to have been admitted to the Provincial mental health facility in which he is resident under section 23. 1964, c. 29, s. 40.

Staff.

41. The Director of Mental Health Services, the Superintendents of Provincial mental health facilities under this Act, and the medical officers and other staff of the Provincial mental health facilities under this Act and other staff employed under or for the purpose of administration of any Act repealed by this Act, and who held office under his or their appointments at the coming into force of this Act, continue in office without reappointment. 1964, c. 29, s. 41.

Regulations.

42. The Lieutenant-Governor in Council may make whatever regulations may be necessary in order to effect the transition brought about by the enactment of this Act. 1964, c. 29, s. 42.

Repeal.

43. The following Acts are repealed: *Mental Hospitals Act*, *Clinics of Psychological Medicine Act*, *Provincial Child Guidance Clinics Act*, *Provincial Mental Health Centres Act*, and *Schools for Mental Defectives Act*. 1964, c. 29, s. 43.

44. [Repealed. 1968, c. 27, s. 19.]

Hospital Act.

45. (1) Section 7 of the *Hospital Act*, being chapter 178 of the *Revised Statutes of British Columbia, 1960*, is amended by striking out clause (b) of the definition of "private hospital" or "hospital" and substituting:—

"(b) a Provincial mental health facility as defined under the *Mental Health Act, 1964*."

(2) Section 16A of the *Hospital Act* is amended by striking out the words "or is licensed under the *Mental Hospitals Act*" at the end of subsection (1) and substituting the words "or is a Provincial mental health facility as defined in the *Mental Health Act, 1964*", so that the subsection shall read as follows:—

"16A. (1) No person shall

"(a) advertise or otherwise make any representation that

"(i) nursing care or attention; or

"(ii) observation or treatment of or care for illness, disease, or injury

will be provided in any place under supervision by or with the approval or assistance of the Government of the Province or any agency thereof; or

“(b) by the use or publication of the words ‘hospital,’ ‘nursing home,’ or ‘convalescent home,’ or any other words, imply or attempt to give the implication that

“(i) nursing care or attention; or

“(ii) observation or treatment of or care for illness, disease, or injury

is or will be provided in any place under supervision by or with the approval or assistance of the Government of the Province or any agency thereof,

unless the place is licensed as a private hospital under this Part, or is a hospital as defined in section 2 or 25, or is a Provincial mental health facility as defined in the *Mental Health Act, 1964*.” 1964, c. 29, s. 45.

Psychiatric Nurses Act.

46. Section 12 of the *Psychiatric Nurses Act*, being chapter 313 of the *Revised Statutes of British Columbia, 1960*, is amended by striking out the words “the mentally ill as defined in the *Mental Hospitals Act* or of mentally defective persons as defined in the *Schools for Mental Defectives Act*” in the second, third, and fourth lines and substituting the words “mentally disordered persons as defined in the *Mental Health Act, 1964*,” so that the section shall read as follows:—

“12. This Act shall not be construed to affect or apply to the nursing care of mentally disordered persons as defined in the *Mental Health Act, 1964*,

“(a) by members of the family of the patient; or

“(b) by any person employed primarily in a domestic capacity who does not hold himself out or accept employment as a person licensed to practise psychiatric nursing or nursing in mental deficiency; or

“(c) by a person enrolled in a school or course of training for the purpose of becoming a registered nurse, a licensed psychiatric nurse, a licensed nurse in mental deficiency, or a practical nurse;

“(d) in hospitals, by persons employed as psychiatric aides, orderlies, or nurse aides;

“(e) by registered nurses.” 1964, c. 29, s. 46.

Sexual Sterilization Act.

47. Section 2 of the *Sexual Sterilization Act*, being chapter 353 of the *Revised Statutes of British Columbia, 1960*, is amended by striking out the definition of “institution” and substituting:—

“‘institution’ means any Provincial mental health facility as defined in the *Mental Health Act, 1964*, or a training-school as defined in the *Training-schools Act*;”. 1964, c. 29, s. 47.

Magistrates Act.

48. Section 11 of the *Magistrates Act*, being chapter 36 of the *Statutes of 1962*, is amended by striking out clause (f) and substituting:—

“(f) A Superintendent of a Provincial mental health facility appointed in accordance with the *Mental Health Act, 1964*.” 1964, c. 29, s. 48.

Commence-
ment.

49. The provisions of this Act, except section 1 and this section, come into force and effect on a date or dates to be fixed by the Lieutenant-Governor by his Proclamation, and he may fix different dates for the coming into force and effect of different provisions.

SCHEDULE

FORM A

MENTAL HEALTH ACT
(Section 27)

MAGISTRATE'S WARRANT FOR APPREHENSION OF A PERSON BELIEVED TO BE
MENTALLY DISORDERED AND DANGEROUS TO BE AT LARGE

PROVINCE OF BRITISH COLUMBIA: }
DISTRICT, COUNTY, OR CITY OF .}

To all Peace Officers in this District, County, or City of _____ :

Application has been made to me this day by a person who appears to have good reason to believe that [name of person] is a mentally disordered person and dangerous to be at large.

You are therefore commanded, in Her Majesty's name, forthwith to apprehend [name of person] and to convey that patient to a Provincial mental health facility or an observation unit for admission thereto.

Given under my hand and seal this _____ day of _____, in the year of our Lord one thousand nine hundred and _____, at _____, in the district, county, or city aforesaid.

(Signed) _____

(Official qualification) _____

FORM B

MENTAL HEALTH ACT
(Sections 35 and 38)

WARRANT FOR APPREHENSION OF PATIENT

PROVINCE OF BRITISH COLUMBIA: }
DISTRICT, COUNTY, OR CITY OF .}

To all Peace Officers in this District, County, or City of _____ :

[Name of person], who is a patient who is authorized to be detained and has been detained in a Provincial mental health facility, left the Provincial mental health facility without having been discharged.

2654-23

You are therefore commanded, in Her Majesty's name, forthwith to apprehend
[name of person] and to convey the patient to the Provincial mental
health facility known as [name of facility].

Given under my hand and seal this day of , in the year of our
Lord one thousand nine hundred and , in the district, county, or city
aforesaid.

(Signed) _____
(Official qualification) _____

1964, c. 29, Sch.

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in right of the Province of British Columbia.
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